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SIPDIS

SENSITIVE

DEPARTMENT FOR OES/OA (LIZ TIRPAK) AND EUR/WE

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SUBJECT: ALLEGED MISDEEDS OF U.S. FLAGGED RESEARCH VESSEL

Classified By: ECONCOUNS WHITNEY BAIRD PER 1.4 (B/D)

1. (C) The R/V Powell has been on U.S. Embassy Madrid's radar screen since September, when it first contacted us for assistance in processing a request to make a port call in a Spanish harbor. Since our first contact with it, this vessel has demonstrated a consistent pattern of ignoring and at times trying to circumvent established U.S.-Spanish mechanisms for processing port call requests. What had been a relatively minor issue (complicating U.S.-Spanish port visit cooperation), just ratcheted up a few notches with the publication of several articles the Spanish press over the weekend that alleged that the vessel, between its port calls in Spanish harbors, had been exploring for oil in Spanish Exclusive Economic Zone (EEZ) waters under contract to the Moroccan Government.

2. (C) The press coverage to date appears to have been a mix of truth and speculation. The truth part documents the vessel's past history of ignoring/circumventing Spanish port call procedures and the fact that it is currently illegally berthed in Las Palmas port (its last entry permit having expired on October 12). The Embassy can verify some of these shenanigans. It also appears to be true (published admissions by its owner/operator) that the vessel is under contract to the U.S. oil firm Kerr-McGee, who in cooperation with Shell, is exploring the area between the Canary Islands and the disputed Western Sahara territory for oil. What is not clear to us is Kerr-McGee/Shell's contractual relationship with the Moroccan Government. The Spanish press reports that Kerr-McGee has been under contract to the Moroccan Government since November 2001 to explore for oil in this area. It also reports that a Moroccan official was aboard the Powell while it was conducting its activities.

3. (U) What appears to be speculation, at least for now, is the allegation that the vessel has been taking samples in Spanish EEZ waters. Press reporting of Spanish port/military officials quote officials indicating that the vessel has had administrative problems relating to its port visit requests. The press line stating that the vessel may have been exploring for oil in Spanish EEZ waters comes only from "unnamed" military sources. Officials associated with TDI Brooks, the owners of the vessel, are quoted in the press asserting that their oil exploration activities were limited to Moroccan waters. And remember that there is nothing in customary international law to stop the Powell from sailing in Spanish EEZ waters. If there is something to the speculation, it may come down to whether the Powell actually took samples in EEZ waters claimed by Spain.

4. (C) Part of the problem has been some confusion on all sides (including the USG) regarding whether the Powell needed a formal clearance to enter Spanish ports. The U.S. has claimed it did not given its commercial vice scientific mission. The Spanish authorities, who own the ports in question and thus hold all the cards, have consistently said the Powell does require such permits, given its classification as a research vessel. In other words, the vessel's classification and not its mission is the key point for Spain. In the end, the U.S. side acquiesced and on several occasions the Embassy interceded with Spanish authorities to get the Powell the port calls it desired. Notwithstanding the above, it has become readily clear to both the Spanish and Embassy authorities involved that the Powell has consistently played "fast and loose" in trying to get itself into port.

5. (C) The story has not yet grown beyond the Canary Island and Madrid economic press ("Expansion" article of October 16 - informal embassy translation emailed/faxed to OES/OA - Liz Tirpak and EUR/WE - Morgan Hall). Nonetheless, given the recent tensions in the U.S.-Spanish bilateral relationship, we could easily see this story gaining traction and turning into a "U.S. Government helping Morocco poach Spanish oil" type of story line. However it goes, we will be happy to see the stern of the Powell, whose representatives have been less than friendly in their interactions with Embassy officials and who have shown a unique ability to generate controversy wherever they sail.

ARGYROS